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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,040	11/17/2003	Donald G. Wheatley	1584-003	3219

26824 7590 01/21/2005

ALEX RHODES
UNIT NO. 9
50168 PONTIAC TRAIL
WIXOM, MI 48393

EXAMINER

GORDON, STEPHEN T

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,040

Applicant(s)

WHEATLEY, DONALD G.

Examiner

Stephen Gordon

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11-17-03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 8-10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made **without** traverse in the reply filed on 12-6-04.

2. It is requested that applicant cancel non-elected claims 8-10 in response to this action to facilitate the issue process if the application is ultimately allowed.

3. The disclosure is objected to because of the following informalities: on page 6 – line 17, the comma before “The” should be a period.

Appropriate correction is required.

4. Claim 7 is objected to because of the following informalities: line 2 is awkward, and “having” should apparently be deleted from the line to correct the claim.

Appropriate correction is required.

5. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 2, “said thin wall tube” lacks clear antecedent basis and should apparently be –said cylindrical tube—for clarity. Additionally it is noted, –additional—should be inserted after “one” of line 2 for added clarity.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ragsdale in view of Nix.

Ragsdale teaches a tie rail for a vehicle including a cylindrical tube 30 and a pair of brackets 24, 14+ defining a circular wall portion 24 (figure 4 embodiment) as broadly claimed, an adjoining substantially vertical wall portion 16 as broadly claimed, and a lower base portion 18. For clamping the tube to the brackets, a fastener/means for fixing 34 is provided. Finally, to the extent that the tube is designed to slide and rotate within the sleeve 24, the brackets are deemed slidably mounted and rotatable as broadly claimed.

Re claims 1+ and 3+, Ragsdale fails to teach that the brackets are specifically made of extruded aluminum.

Nix teaches that it is known to make supporting brackets for a vehicle tie rail from extruded aluminum – see section 5, lines 29-31.

In order to fabricate a bracket that is inexpensive to produce and light weight to reduce gross vehicle weight, it would have been obvious to one of ordinary skill in the art to fabricate at least the sleeves 24 of the brackets of Ragsdale from extruded aluminum in view of the teachings of Nix.

Re claim 2, note the middle bracket in figure 1.

Re claim 5, note in section 4 – line 18, Ragsdale teaches use on a van.

Re claim 6, while Ragsdale does not specifically teach use on a station wagon, the reference does teach that the rail can be used on vehicles other than a pickup truck – see section 4, lines 18-19. In order to better secure articles on the

Art Unit: 3612


top of a station wagon, it would have been obvious to one of ordinary skill in the art to fit the wagon roof with the Ragsdale tie rails as modified by Nix in view of the teachings of Ragsdale.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note at least Wheatley teaches extruded parts for a tie rail assembly – see section 3, lines 20-21.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3612

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen Gordon
Primary Examiner
Art Unit 3612

stg